

Message Text

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ACTION EA-09

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 H-02 INR-07 L-03

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06 SAJ-01

OMB-01 /058 W

----- 104590

R 160950Z APR 76

FM AMEMBASSY TOKYO

TO SECSTATE WASHDC 8548

INFO AMEMBASSY SEOUL

AMEMBASSY TAIPEI

AMCONSUL HONG KONG

USLO PEKING

CINCPAC HONOLULU HI

COMUSJAPAN YOKOTA

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CINCPAC FOR POLAD

E.O. 11652: N/A

TAGS: PINT, JA

SUBJECT: PRESENT ELECTORAL APPORTIONMENT RULED UNCONSTITUTIONAL

SUMMARY. THE SUPREME COURT RULED APRIL 14 THAT THE PRESENT ELECTORAL APPORTIONMENT IN JAPAN IS UNEQUAL AND THEREFORE UNCONSTITUTIONAL. BUT THE COURT DID NOT SPELL OUT ANY REQUIREMENTS TO RECTIFY THE SITUATION AND NO EFFORTS ARE EXPECTED ANY TIME SOON. BUT THE DECISION DOES PRESENT THE CONSERVATIVES WITH ANOTHER SERIOUS PROBLEM. END SUMMARY.

1. REVERSING A 1964 DECISION, THE JAPANESE SUPREME COURT APRIL 14 RULED THAT THE PRESENT ELECTORAL APPORTIONMENT WAS NO LONGER "CONSONANT WITH THE CONSTITUTIONAL REQUIREMENT FOR EQUALITY"--I.E., EQUALLY WEIGHTED VOTES. THE COURT WENT ON TO STATE THAT (DESPITE A LEGAL REQUIREMENT

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TO REVIEW APPORTIONMENT EVERY FIVE YEARS) INEQUALITIES

HAD NOT BEEN RECTIFIED AND THE APPORTIONMENT WAS UNCONSTITUTIONAL AT THE TIME OF THE 1972 LOWER HOUSE ELECTION. BUT THE COURT DID NOT NULLIFY THE ELECTION RESULTS, AS ASKED BY THE PLAINTIFFS, SINCE NULLIFICATION WOULD "SERIOUSLY AND ADVERSELY AFFECT THE PUBLIC WELFARE." IN ITS RULING, THE COURT DID NOT DEFINE A "CONSTITUTIONAL" APPORTIONMENT, SAYING ONLY THAT "A REASONABLE BALANCE" BETWEEN VOTERS AND NUMBERS OF REPRESENTATIVES MUST BE ESTABLISHED. THE COURT SAID NOTHING AT ALL ABOUT HOW THE PRESENT SITUATION SHOULD BE RECTIFIED, NOR DID IT MENTION A TIME LIMIT.

2. THE SUIT WAS BROUGHT BY AN ATTORNEY-VOTER AND OTHERS IN A TOKYO SUBURBAN (CHIBA) PREFECTURE. THE PLAINTIFFS POINTED OUT THAT AT THE TIME OF THE 1972 ELECTION, A LOWER HOUSE MEMBER REPRESENTED MORE THAN 380,000 VOTERS IN CHIBA'S FIRST DISTRICT AND LESS THAN 80,000 VOTERS IN HYOGO'S FIFTH DISTRICT.

3. REACTION TO THE COURT DECISION WAS SWIFT. CHIEF CABINET SECRETARY IDE AND HOME AFFAIRS MINISTER (HAJIME) FUKUDA PROMISED TO STUDY THE MATTER. OPPOSITION PARTIES UNANIMOUSLY DEMANDED IMMEDIATE REAPPORTIONMENT, PARTICULARLY OF UPPER HOUSE PREFECTURAL DISTRICTS. THE DECISION WAS ALSO UNANIMOUSLY APPLAUDED BY THE MEDIA.

4. COMMENT. GIVEN THE SUBSTANTIAL POST-WAR MIGRATION AWAY FROM RURAL CONSERVATIVE STRONGHOLDS TO URBAN AND SUBURBAN AREAS WHERE OPPOSITION PARTIES PREDOMINATE, THE COURT'S DECISION POTENTIALLY HAS CALAMITOUS IMPLICATIONS FOR THE LIBERAL DEMOCRATS. IF, AS IS GENERALLY ACCEPTED HERE, THE NUMBER OF DIET SEATS IN BOTH HOUSES HAS BEEN ALREADY EXPANDED NEARLY TO THE MAXIMUM, IT IS QUITE CLEAR THAT ANY FAIR REAPPORTIONMENT OF SEATS RELATED TO POPULATION WOULD RESULT IN AN IMMEDIATE CONSERVATIVE LOSS OF THEIR MAJORITY IN BOTH HOUSES. THUS, NOT SURPRISINGLY, NO STEPS ARE LIKELY TO BE TAKEN ANY TIME SOON TO COMPLY WITH THE COURT'S DECISION.

5. IN RESPONSE TO VOCAL OPPOSITION REAPPORTIONMENT DEMANDS (PROBABLY SECOND ONLY TO LOCKHEED AS AN ISSUE), THE CONSERVATIVES LIMITED OFFICIAL USE

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ARE LIKELY TO POINT TO THE 1975 EXPANSION OF THE LOWER HOUSE BY TWENTY SEATS EXCLUSIVELY IN URBAN AND SUBURBAN AREAS, AND THE PROXIMITY OF THE JULY 1977 UPPER HOUSE ELECTION IN JUSTIFYING THEIR INACTION. IN THIS, THEY WILL BE HELPED BY THE VAGUENESS OF THE COURT'S "REASONABLE BALANCE" STRICTURE AND THE ABSENCE OF ANY REQUIRED METHOD OR TIME LIMIT. ONE CYNICAL OBSERVER EVEN SUGGESTS THE POSSIBILITY THAT FUTURE ELECTIONS COULD EVEN BE NULLIFIED WITHOUT UNDUE DAMAGE TO

THE CONSERVATIVES SINCE IT NORMALLY TAKES MORE THAN A
LEGISLATIVE TERM FOR A CASE OF THIS NATURE TO MOVE THROUGH
THE COURTS.

6. BUT, IF THE RULING IS NOT AS DRAMATIC AS IT AT
FIRST MIGHT SEEM, IT OBVIOUSLY CANNOT BE IGNORED. THE
DECISION IS ALMOST CERTAIN TO REVIVE LDP CONSIDERATION OF A
SMALL (SINGLE MEMBER) CONSTITUENCY
SYSTEM FOR THE LOWER HOUSE. SUCH A SHIFT CONTINUES TO
APPEAR HIGHLY UNLIKELY, HOWEVER, GIVEN THE FACT THAT
FULLY TWENTY-FIVE PERCENT OF ALL VOTERS SUPPORT SMALLER
PARTIES WHOSE EXISTENCE WOULD BE IMMEDIATELY THREATENED
AND THE CONTINUING JCP AND CGP (KOMEITO)--AND PROBABLY
SERIOUS--THREAT TO TAKE TO THE STREETS ON THIS ISSUE.
THUS, THE COURT'S RULING IS ANOTHER SERIOUS--IF
LONGER TERM--HEADACHE FOR THE CONSERVATIVES.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: ELECTION LAW, COURT DECISIONS, ELECTORATE
Control Number: n/a
Copy: SINGLE
Draft Date: 16 APR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: KelleyW0
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976TOKYO05673
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760145-0612
From: TOKYO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760451/aaaabrje.tel
Line Count: 132
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: KelleyW0
Review Comment: n/a
Review Content Flags:
Review Date: 21 MAY 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <21 MAY 2004 by ElyME>; APPROVED <20 SEP 2004 by KelleyW0>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: PRESENT ELECTORAL APPORTIONMENT RULED UNCONSTITUTIONAL SUMMARY. THE SUPREME COURT RULED APRIL 14 THAT THE
TAGS: PINT, JA
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006